IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2)(b)
Description of case

Writ Petition No. 237 of 2002 (M/B)

Date of decision: 21st September, 2004

For the Approval of:

Hon'ble Chief Justice V.S. Sirpurkar

Hon'ble Mr. Justice Irshad Hussain.

- Whether the order/judgment should be sent to the reporters for reporting? ( )

- Whether the reporter be allowed to see the judgment? (Yes)

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IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 237of 2002 (M/B)

Vidya Mandir Society,
153 Rajpur Road,
Dehradun thoryuth its Secretary,
Sri Kharati Lal Khanna,
S/o Sri Jai Kishan Das,
R/o Vidya Mandir Society,
153 Rajpur Road, Dehradun. …… Petitioner

Versus

Central Board of Direct Taxes,
New Delhi, through its Chairman & another……..… Respondents
……

Mr. Manoj Tiwari, learned counsel on behalf of the petitioner.
Mr. P.C. Maulekhi, learned Standing Counsel for the respondents.

Coram: Hon. V.S. Sirpurkar, C.J.
Hon. Irshad Hussain, J.

(Per Hon'ble Chief Justice)

1. Heard Mr. Manoj Tiwari, learned counsel for the petitioner and Mr. P.C. Maulekhi, learned Standing Counsel on behalf of respondents.

2. We do not think that writ petition can be entertained as it is merely against a show-cause notice as to why the registration granted to the petitioner may not be withdrawn. The petitioner enjoyed the registration granted under Section 12AA of the Income Tax Act, 1961 as an institution running for the charitable purposes and an institution generating the revenue for the charitable purposes.

3. The Commissioner of Income Tax, Dehradun seems to have taken some other view and has slapped the show-cause notice. Mere reading of the show-cause notice suggests that for substantiating the same or controverting the same, evidence will be required and the question of facts will have to be gone into. Learned counsel for the petitioner says that once the registration has been granted by the

Income Tax Authorities, there would lie no jurisdiction in the Commissioner of Income Tax, Dehradun to withdraw the same.

4. In our opinion, all these questions can be addressed to the Commissioner of Income tax, himself, who would, if these questions are raised, go into all these questions. All the plea would be available to the petitioner including the plea regarding the jurisdiction. We, therefore, desist from entertaining this writ petition.

5. The writ petition is accordingly disposed of, but with the observation that the petitioner shall be entitled to raise all the pleas available to him in law before the Commissioner, Income Tax.

(Irshad Hussain, J.) **(V.S.Sirpurkar, C.J.)**
24.09.2004 **24.09.2004**

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